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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/638,341	08/15/2000	Fang Yi Peng	PGI 40037	2943

7590 05/06/2002
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EXAMINER

SALVATORE, LYNDIA

ART UNIT	PAPER NUMBER
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1771

4
DATE MAILED: 05/06/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/638,341

Applicant

PENG ET AL.

Examiner

Lynda M Salvatore

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on 04 December 2000.

2a) ☐ This action is FINAL.

2b) ☒ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) 1-6 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) ☐ Claim(s) _____ is/are allowed.

6) ☒ Claim(s) 1-6 is/are rejected.

7) ☐ Claim(s) _____ is/are objected to.

8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) ☐ All b) ☐ Some * c) ☐ None of:

1. ☐ Certified copies of the priority documents have been received.

2. ☐ Certified copies of the priority documents have been received in Application No. _____.

3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) ☐ The translation of the foreign language provisional application has been received.

15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.

4) ☐ Interview Summary (PTO-413) Paper No(s). _____.

5) ☐ Notice of Informal Patent Application (PTO-152)

6) ☐ Other:

DETAILED ACTION

Information Disclosure Statement

1. The listing of references in the specification is not a proper information disclosure statement. 37 CFR 1.98(b) requires a list of all patents, publications, or other information submitted for consideration by the Office, and MPEP § 609 A(1) states, "the list may not be incorporated into the specification but must be submitted in a separate paper." Therefore, unless the references have been cited by the examiner on form PTO-892, they have not been considered.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
3. Claims 4 and 5 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 4 is not specific with regards to how the fabric article is to be used as a component in an absorbent article.
4. Claim 5 is indefinite it is not specific with regards to how the fabric article is to be used as a component in a protective apparel article, i.e. the structural, chemical, or physical properties which make up the protective apparel article.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hulse et al., in view of Lutzmann et al., and further in view of Volungis et al.

The Hulse et al., reference discloses an improved textile fiber prepared from polypropylene fibers (Column 1, line 19-21). The surface lubrication of the fibers is improved using an isotactic polypropylene resin containing an amount ranging from about .01 to about 1.0% by weight of erucamide (Abstract). Hulse et al. further discloses that durable, self-replenishing, surface lubricity can be imparted to a polypropylene fiber or filament by incorporating an amide or a mixture of amides of higher fatty acid into the polypropylene resin feed material (Column 2, lines 60-65). Examples of suitable amides include erucamide, stearamide, and mixtures thereof (Column 2, line 70 and Column 3, lines 1-5). Hulse et al. discloses that the total amount of fatty acid amide used, based on the weight of polypropylene, may vary from .01 to 1% and more preferably from .01 to .3% (Column 3, lines 6-12). Hulse et al. discloses various ways of incorporating the fatty acid amide including melt blending (Column 3, lines 31-35). Additionally, Hulse et al. states that lubrication permits free motion of the yarn in the fabricated articles which lends to ease in recovery to original dimensions (Column 4, lines 9-13). The Hulse et al. reference does not expressly disclose that using a mixture of amides such

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as the combination claimed by the applicant gives better results. However, the Lutzmann et al. reference teaches the use of combining erucamide and laurylamide to a polyolefin resin comprising at least one member of the group polyethylene, polypropylene, or their copolymers (Column 5, Claim 1) to impart surface lubrication or instantaneous slip (Abstract). Furthermore, the combination of these fatty acid amides, in a certain ratio not only provides the desired surface lubrication but also promotes anti-blocking properties. The improved polypropylene resin compositions of the Volungis et al. reference may be used for various purposes including filaments and other shaped articles (Column 3, lines 50-55). The Hulse et al. reference and the Volungis et al. reference are related in the sense that they both disclose incorporating fatty acid amides into polyolefin resins particularly those having polypropylene. Like the Hulse et al. reference, Volungis et al., also teaches that the addition of fatty acid amides to isotactic polypropylene greatly improves its gloss, clarity and slip (Column 1, lines 40-42). To achieve the desired results, Volungis et al. suggests any number of fatty acid amides such as the amide of octadecanoic acid (stearamide) (Column 1, lines 49-54). Furthermore, the Volungis et al. reference explicitly states that while the use of a single fatty acid may prove satisfactory, a mixture of fatty acids effectively impart the desired novel properties to polypropylene to a greater extent (Column 1, lines 55-60). Hulse et al., Lutzmann et al., and Volungis et al., are all evidence that incorporating fatty acid amides into polyolefin resins are well known in the art. Hulse et al. teaches adding erucamide to polyolefin resin compositions and suggests that a mixture may be used, while Volungis et al. states greater results have been found using a mixture over the addition of single fatty acid amide. The latest reference, Lutzmann et al. teaches using a combination of fatty acid amides to produce the desired results. Therefore, motivated by the

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teachings of Lutzmann et al. at the time the invention was made it would have been obvious to a person of ordinary skill in the art to combine optimized concentrations of stearamide and erucamide in polypropylene filaments, motivated by the teachings of the prior art suggesting improved properties.

7. With respect to claims 4 and 5, a recitation of intended use without adding any further structural limitation to the fabric is not given any patentable weight at this time. A recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim. In a claim drawn to a process of making, the intended use must result in a manipulative difference as compared to the prior art. See *In re Casey*, 152 USPQ 235 (CCPA 1967) and *In re Otto*, 136 USPQ 458, 459 (CCPA 1963).

Conclusion

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. In addition, the following references are cited of interest for disclosing various aspects of the applicant's invention.

US 3,170,889	US 3,763,059
US 3,330,796	US 5,033,172
US 5,582,904	

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lynda M Salvatore whose telephone number is 703-305-4070.

The examiner can normally be reached on M-F.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris can be reached on 703-308-2414. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9310 for regular communications and 703-872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.

ls
May 1, 2002



TERREL MORRIS
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1700